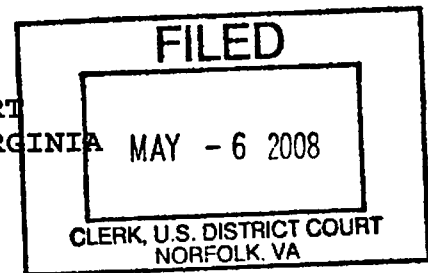


UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division



TERRY TYRONE MOORE, #325480,

Petitioner,

v.

ACTION NO. 2:07cv441

GENE M. JOHNSON, Director of the  
Virginia Department of Corrections,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition alleges violation of federal rights pertaining to Petitioner's conviction on October 10, 2002, in the Circuit Court of the City of Hampton, Virginia, for one (1) count of attempted maiming; one (1) count of attempted robbery; one (1) count of use of a firearm in the commission of attempted robbery; two (2) counts of use of a firearm in the commission of a felony; and one (1) count of conspiracy to commit felonies. Petitioner was sentenced to serve a total of twenty-three (23) years in prison.

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C), Rule 72(b) of the Federal Rules of Civil Procedure and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The report of

the Magistrate Judge (Magistrate Judge's Report) was filed on March 28, 2008, denying Petitioner's motion for an evidentiary hearing and recommending dismissal of the petition.<sup>1</sup> By copy of the report, each party was advised of his right to file written objections to the findings and recommendations made by the magistrate judge. On April 7, 2008, the Court received Petitioner's Objections to Magistrate Judge's Report and Recommendations. The Court received no response from Respondent.

The Court, having reviewed the record and examined the objections filed by Petitioner to the Magistrate Judge's report, and having made de novo findings with respect to the portions objected to,<sup>2</sup> does hereby ADOPT AND APPROVE the findings and recommendations set forth in the report of the United States Magistrate Judge filed on March 28, 2008, and it is, therefore, ORDERED that the petition be DENIED AND DISMISSED and that judgment be entered in favor of Respondent.

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<sup>1</sup>The Magistrate Judge's Report recommended dismissal of claims (1) and (4) as being procedurally defaulted and recommended dismissal of claims (2), (3), and (5) as being without merit. See Magistrate Judge's Report, at 33. Petitioner has only objected to the Magistrate Judge's findings regarding claims (2), (3), and (5).

<sup>2</sup>As to claims (2) and (3), the Court specifically notes that the voir dire established by the trial judge did in fact establish that none of the jurors had "acquired any [pre-trial] knowledge about [the case]," thus the finding by the state court that additional voir dire was unnecessary was not unreasonable. The objections as to claim (5) are without merit.

Petitioner may appeal from the judgment entered pursuant to this final order by filing a written notice of appeal with the Clerk of this Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty (30) days from the date of entry of such judgment. Petitioner has failed to demonstrate "a substantial showing of the denial of a constitutional right." Therefore, the Court, pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure, declines to issue a certificate of appealability. See Miller-El v. Cockrell, 537 U.S. 322, 335-36 (2003).

The Clerk shall mail a copy of this Final Order to Petitioner and to counsel of record for Respondent.

/s/  
**Rebecca Beach Smith**  
**United States District Judge**

  
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

May 6, 2008